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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 OKI AMERICA, INC. et al.,

No. C 04-03171 CRB

12 Plaintiff,

**ORDER**

13 v.

14 ADVANCED MICRO DEVICES, INC.,

15 Defendant.  
16 \_\_\_\_\_/

17 and related counterclaims  
18 \_\_\_\_\_/

19 Now pending before the Court are (1) Oki's motion to amend its invalidity  
20 contentions, and (2) AMD's motion to supplement its opposition to Oki's motion to amend  
21 its invalidity contentions. After carefully considering the papers filed by the parties, the  
22 Court concludes that oral argument is unnecessary, see Local Rule 7-1(b), and GRANTS  
23 AMD's motion to supplement its opposition.

24 The Court also GRANTS Oki's motion to amend its final invalidity contentions to add  
25 two additional prior art references. The Patent Local Rules provide that 50 days after service  
26 of the Court's Claim Construction ruling, a party may amend its preliminary invalidity  
27 contentions without leave of court, provided the party claiming infringement has served Final  
28 Infringement Contentions and "the party opposing a claim of patent infringement

1 believes in good faith that the Court's Claim Construction ruling so requires." N.D. Cal.  
2 Patent Local Rule 3-6(b)(1) & (2). Pursuant to this Rule, on May 30, 2006 Oki served Final  
3 Invalidity Contentions that added an additional prior art reference. Two days later, on June  
4 2, 2006, Oki notified AMD that it had just discovered two additional references to include in  
5 its Final Invalidity Contentions. AMD refused to consent to the amendment. Accordingly,  
6 Oki has moved pursuant to Patent Local Rule 3-7 to amend their contentions.

7 Patent Local 3-7 provides that "other than as expressly permitted" in Local Rule 3-6, a  
8 party may amend its contentions "only by order of the Court, which shall be entered only  
9 upon a showing of good cause." The Court will assume that if Oki had conducted a  
10 reasonable and diligent prior art search it would have located the additional references and  
11 therefore have been able to include them in its Final Invalidity Contentions. Nonetheless, as  
12 Oki notified AMD as soon as it learned of the references, and did so only two days after it  
13 timely served its Final Invalidity Contentions, Oki has shown good cause for its amendment.  
14 AMD does not contend that Oki could not have included the references in its May 30  
15 disclosure and it therefore does not, as it cannot, argue that it is prejudiced by the additional  
16 disclosure made two days later. Nor does AMD contend that Oki intentionally withheld  
17 disclosure of the references for those two days. Accordingly, Oki's motion to amend is  
18 GRANTED.

19 **IT IS SO ORDERED.**

20  
21 Dated: July 19, 2006



CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE